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West Des Moines City Council Proceedings
Monday, June 10, 2013

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, June 10, 2013 at 5:30 PM. Council members present were: J. Mickelson, T. Ohmart, J. Sandager, K. Trevillyan, and R. Trimble.

On Item 1. Agenda. It was moved by Trevillyan, second by Trimble to approve the agenda as presented.

Vote 13-206: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum:

Julia McGuire, 919 45th Street, reported on the West Des Moines Community Garden and thanked the City for its support of the program. She also expressed concerns about recent flooding of the adjacent park land after a recent rain event.

Gary Scott, Parks and Recreation Director, explained the adjacent park land is in the Jordan Creek flood plain, but he believes it is unlikely for flooding to impact the community garden unless there is an exceptional amount of heavy rain.

Mike Blaser, 5746 Coachlight Court, stated he has experienced issues with music coming from Cabaret in West Glen, and he requested that the Council be cognizant of the residents when considering the approval of future extended sound permits.

On Item 3. Council/Manager/Other Entities Reports:

Jim Miller, Director of the Historic Valley Junction Foundation, reported on the history of the City purchasing Historic City Hall, 137 5th Street, and rehabilitating it as a demonstration building with green sustainable features. He expressed appreciation to the City for undertaking the project.

Phil Hodgin, RDG Planning and Design, reported on Historic City Hall's attainment of LEED Platinum Certification, which is the highest honor from the U.S Green Building Council. He then presented the award plaque to Mayor Gaer.

Council member Sandager reported he and Mayor Gaer participated in the Des Moines Convention & Visitor's Bureau golf outing today, where Mayor Gaer and his team won the Mayor's trophy. He attended a meeting of the BRAVO Grant Committee, where he lobbied for an increase in funding for the West Des Moines Historical Society and the Historic Valley

Junction Foundation.

Council member Ohmart reported he attended the groundbreaking today for the Patty Cownie Center and Meals from the Heartland.

City Manager Greg Sparks reported on-site interviews for the Human Services Director position are scheduled for July 2nd. He also reported City staff met with MPO staff to address comments on the nodes and corridor section, which included discussion on a proposed reallocation of road funds to transit. He stated the City-wide cleanup was held last week, and 440 tons of trash was collected. He reported the latest building report showed approximately \$16.5 million in valuation for May and \$57 million year-to-date.

On Item 4. Consent Agenda.

Council members pulled Item 4(e) for discussion. It was moved by Ohmart, second by Sandager to approve the consent agenda as amended.

- a. Approval of Minutes of May 28, 2013 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. MLC Holdings, LLC, d/b/a Blue Moon Dueling Piano Bar & Restaurant, 5485 Mills Civic Parkway - Temporary Expanded Outdoor Service Area to be added to Existing Class LC Liquor License with Outdoor Service Privileges (Effective June 14, 2013 to July 31, 2013) - New
 - 2. Drury Development Corporation d/b/a Drury Inn & Suites, 5505 Mills Civic Parkway - Class LB Liquor License with Sunday Sales - Renewal
 - 3. Zing Pizza Corporation, d/b/a Felix and Oscars West, 4801 Westown Parkway - Class LC Liquor License with Sunday Sales and Catering Privileges - Renewal
 - 4. Krause Gentle Corp, d/b/a Kum & Go #97, 196 South 50th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 - 5. Maxie's Enterprises, LLC d/b/a Maxie's Restaurant & Lounge, 1311 Grand Avenue - Class LC Liquor License with Sunday Sales - Renewal
 - 6. OTB Acquisition, LLC d/b/a On The Border, 140 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 7. P. F. Chang's China Bistro, Inc., d/b/a P. F. Chang's China Bistro, 110 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
 - 8. Good Stuff, LLC, d/b/a Shotgun Betty's (f/k/a 515 Ultra Lounge), 5535 Mills Civic Parkway, Suite 100 - Addition of Outdoor Service to Existing Class LC Liquor License with Sunday Sales - New
 - 9. Walnut Brewery, Inc. d/b/a Rock Bottom Brewery, 4508 University Avenue - Temporary Expanded Outdoor Service Area to be added to Existing Class LC Liquor License with Outdoor Service Privileges (Effective July 9, 2013) - New

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10. Conrado Corporation d/b/a Taco Andreas 3, 1250 8th Street - Class LC Liquor License with Sunday Sales and Outdoor Service - New
11. Target Corporation d/b/a Target Store T-1901, 5405 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
12. Wal-Mart Stores, Inc. d/b/a Wal-Mart Supercenter #3762, 6365 Stagecoach Drive - Class LE Liquor License with Carryout Wine, Carryout Beer and Sunday Sales - Renewal
- d. Approval of Cigarette Permits
- f. Approval of Special Event Logistics - Triathlon Events in July 2013
- g. Approval of Change Order #3 - American Legion Park Sprayground Project
- h. Approval of Revised Cropland Lease - South 88th Street and Grand Avenue City-Owned Property
- i. Approval of Amendment #2 - Engineering Services Agreement - City Hall Mechanical System Improvements
- j. Approval of Letter of Support - StormReady Program
- k. Accept Work:
 1. 2012 University Avenue Traffic Signal Battery Backup Units
 2. 2012 Sewer Lining Program
- l. Approval of Appointments - DART Board
- m. Approval of High Quality Jobs Grant Application - Project Mountain
- n. Approval of Professional Services Agreements:
 1. Exterior Lighting Retrofit - Phase 1
 2. Valley Junction Walkway Lighting Retrofit - Phase 3
 3. Renovation of 139 Sixth Street - Human Services
 4. Law Enforcement Center and Library Mechanical System Improvements
- o. Approval and Acceptance of Operational Agreements:
 1. Valley Junction Sprinkler Infrastructure Program, Phase 1
 2. Valley Junction Sprinkler Infrastructure Program, Phase 2
- p. Approval of Sanitary Sewer Easement - Woodland Park Plaza 1
- q. Approval of Error Correction - Bridgewood PUD Revision

Vote 13-207: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(e) Approval of Extended Sound Permit - West Glen Town Center

Council member Sandager stated he shares the concerns expressed earlier by Mr. Blaser regarding the latest outdoor concert at Cabaret, and he is also concerned that the concert went past 11:00 p.m., which was the ending time stated on the permit.

Chris Shires, Development Planning and Inspection Manager, explained the sound permit in question was previously issued for a series of four concerts at Cabaret, each ending at 11:00 p.m.

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He stated the latest event did not abide by the 11:00 p.m. ending time, but they still have three approved concerts remaining this summer. He noted the issue was with the Cabaret event, and there are no outstanding issues with the pending West Glen events and no complaints were received for West Glen's events in 2012. He also noted no complaints were received for Cabaret's events in 2012 either.

Mayor Gaer inquired what options the City has to take action against Cabaret for violating the sound permit ending time.

City Attorney Dick Scieszinski suggested he can send a letter to Cabaret, notifying them that the City could revoke their sound permit for violating the terms of the permit but giving them an opportunity to respond.

The Mayor and Council expressed interest in pursuing the option suggested by Mr. Scieszinski.

Council member Sandager also expressed an interest in setting conditions on extended sound permit requests, so future events will only be allowed on the condition that there have been no violations with earlier events.

It was moved by Sandager, second by Trevillyan to approve Item 4(e) Approval of Extended Sound Permit - West Glen Town Center, with the later events being approved on the condition that the earlier events are not in violation of the terms of the permit or the ordinance.

Mayor Gaer requested staff put Cabaret on notice and try to address the concerns before their planned June 21st event.

Council member Ohmart requested staff review the sound permit application to see if it can be made clearer how the start time and end time should be considered.

Vote 13-208: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Colby Office Park PUD, 1011 and 1031 Office Park Road - Amend the Planned Unit Development to Allow SIC 2835: In Vitro and In Vivo Diagnostic Substances as an Allowed Use, initiated by Colby Management Company

It was moved by Sandager, second by Trevillyan to consider the second reading of the ordinance.

Vote 13-209: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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It was moved by Sandager, second by Trevillyan to approve the second reading of the ordinance.

Vote 13-210: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 13-211: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(b) 4125 Westown Parkway Urban Renewal Area, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Sandager to consider the second reading of the ordinance.

Vote 13-212: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the second reading of the ordinance.

Vote 13-213: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trevillyan, second by Sandager to waive the third reading and adopt the ordinance in final form.

Vote 13-214: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(c) Valley Junction Neighborhood Reunion Street Party, initiated by Taste of the Junction, Inc.

Mayor Gaer stated the Mayor and Council are all supportive of this special event, and the only issue that needs to be discussed tonight is whether or not it would be best to close the 100 block of 5th Street for this inaugural event.

Rachelle Long, 106 11th Street, President of Taste of the Junction, Inc., explained the history and purpose of the non-profit organization and expressed her desire for the Valley Junction Neighborhood Reunion to become an annual event every Labor Day weekend. She stated, based on her research and conversations, the merchants in the 100 block of 5th Street are supportive of

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the street closure, so she is requesting that the Council approve the street closure request.

Reike Plecas, 4420 Ashworth Road, Secretary of Taste of the Junction, Inc., stated he was disheartened when he learned the Historic Valley Junction Foundation (HVJF) had expressed to the City, on behalf of the merchants in the 100 block of 5th Street, that the street closure is not supported by the merchants. Therefore, he visited the merchants in the area to solicit their feedback regarding the street closure. He stated a majority of the merchants expressed support of the requested street closure. He noted the only merchant comments he received that were not fully supportive of the street closure were: one desiring for the street closure in the 200 block of 5th Street instead of the 100 block; one wanting the street closure to start after 5:00 p.m.; and one that did not support it because, due to the nature of their business, they do not anticipate the festival would benefit them. He stated Taste of the Junction, Inc. anticipates a crowd of 1,500 to 2,000 people at the Valley Junction Neighborhood Reunion, therefore he believes the alternate location recommended by staff will not be large enough for the crowd.

Jim Miller, Historic Valley Junction Foundation, stated there are 32 businesses in the 100 block of 5th Street, and the petition supporting the street closure was signed by owners or managers representing ten of those businesses. He stated since the majority of the businesses in that block did not sign the petition, and since the feedback he has received has been generally opposed to the street closure, HVJF does not support the street closure in the 100 block of 5th Street. He also noted some merchants that did sign the petition only did so because they were given incomplete and/or misleading information by the petitioner. He expressed he does want the event to be successful and bring people to Valley Junction, but he believes it can be successful in its first year in the alternate location recommended by staff.

Council member Trevillyan reported the sound permit request, which indicated the music would last until midnight, came to the Council for consideration on May 13th but was deferred so the matter could be sent to the Valley Junction Events Committee for review. In those meetings, it was determined that the applicant's intention for the sound permit was actually for the music to end at 10:00 p.m., which does not require Council approval. He reported the Events Committee also discussed a possible alternate location for the event, which includes Railroad Place, Railroad Park, the band shell, plus the public parking lot in the 100 block of 4th Street. He stated the HVJF Board also met and made the recommendation that the 100 block of 5th Street should not be closed for this inaugural event. He noted the reason a number of the merchants do not support the street closure is because it is the Friday of Labor Day weekend, which is a major shopping weekend for Valley Junction businesses, and the event also follows a Farmers Market Thursday. Per Ms. Long's request, and at the direction of the Valley Junction Events Committee, staff completed the review process for the application and recommended the event be held in the alternate location and for the 100 block of 5th Street to not be closed. He also noted that many other Valley Junction events, including Cinco de Mayo and Smokin' in the Junction, started on Railroad Place and did not relocate to 5th Street until the events outgrew the space available on Railroad Place.

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City Manager Greg Sparks reported that, after the departmental staff had reviewed the request from their individual departments' perspectives, the City Manager's Office reviewed the request and took into consideration the fact that residential block parties require 90 percent support from the residents on the block in order to close the street. Since the petition indicated the support from the merchants on the street does not meet that level, staff's recommendation is that the event be held in the alternate location and that 5th Street not be closed.

Mayor Gaer stated if the Council was confident that 90 percent of the merchants supported the street closure, it would be closed, but he expressed concerns regarding the inconsistent levels of support being described by Taste of the Junction, Inc. and HVJF.

Ms. Long stated she wants the event to be held in the 100 block of 5th Street because of its historical significance, and she stated all of the petition's signatures are from the owner or manager on behalf of the business. She also noted that staff made its recommendation prior to their petition being submitted to the City Manager's Office.

Council member Trimble expressed concerns that one of the merchants had communicated to the Council that the petitioners had not divulged anything about the alternate location, so that particular merchant felt misled into signing the petition. He noted Railroad Place is in the 100 block of 5th Street, so it also has the historical significance Ms. Long is seeking. He supports the event and wants it to be successful, but he feels the alternate location recommended by staff seems like a reasonable alternative.

Ms. Long stated the merchants were given information about the alternate location when they were being asked to sign the petition, and a number of the businesses on the east side of 5th Street expressed they did not want the event taking place in the parking lot behind their business.

Council member Trimble inquired how they are estimating the number of attendees.

Mr. Plecas responded they have 500 "likes" on Facebook and their research indicates 2,200 people with ties to the Valley Junction area return for the Labor Day weekend.

Mayor Gaer suggested the only way to resolve the discrepancy regarding which businesses support the street closure and which ones do not, is for representatives from Taste of the Junction, Inc., HVJF, and the City Manager to collectively canvass the businesses and ensure they are all given the same information.

Council member Ohmart expressed his desire that Taste of the Junction, Inc. be given the same opportunity and treated the same way as every other group that makes these types of requests.

Council member Sandager expressed support for Mayor Gaer's suggestion.

Council member Trimble requested staff review the policy on these requests so it's clearer how

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to handle them in the future.

Mr. Sparks stated a committee of interdepartmental staff has already been established to address the policy going forward.

The Mayor and Council held discussion regarding the level of support that should be required for the requested street closure in the 100 block of 5th Street and reached a consensus that support should be required from 75 percent of the businesses.

It was moved by Sandager, second by Trevillyan to conditionally approve the closure of the 100 block of 5th Street and Railroad Place for the Valley Junction Neighborhood Reunion, pending the attainment of 75 percent support among the businesses on that block with that threshold being determined via a canvass of the businesses by a representative from Taste of the Junction, Inc., HVJF, and the City Manager.

Vote 13-215: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

Stephen Long, 116 11th Street, inquired if the City Council has the authority to close 5th Street even if the businesses do not support the street closure.

Mayor Gaer responded yes.

Barbara Long, 123 11th Street, inquired if any event has ever been successful using the area staff had recommended for an alternate location.

Mayor Gaer responded Cinco de Mayo and Smokin' in the Junction started in the alternate location area and have been successful.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider Roger's Farm, south side of Stagecoach Drive (south of Wells Fargo) - Amend the Comprehensive Plan Land Use Map to Change approximately 6.86 acres from Single Family Residential (SF) to Medium Density Residential (MD) and Designate 51.03 acres as Residential Medium Density (RM-12) Zoning, 32.26 acres as Residential Estate (RE-1A) Zoning, and 7.76 acres as Single Family Residential (R-1) Zoning Consistent with the Comprehensive Plan Land Use Designations, initiated by Civic Parkway Associates, LC (continued from May 13, 2013 meeting). He asked for the date the notice was published and the City Clerk indicated the notice was published on April 26, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with one member abstaining and one member absent, the Plan and Zoning Commission recommended City Council approval of both the proposed Comprehensive Plan amendment and proposed rezoning. He also stated an email was received this morning from Bruce Hansen of the Pheasant Ridge Homeowners Association.

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Chris Shires, Development Planning and Inspection Manager, reported the significant point of disagreement regarding this request is the height of the structures on the eastern parcel, as the Pheasant Ridge residents want to limit structures to two stories, but the applicant wants the option to construct three-story structures. He noted the Plan and Zoning Commission recommended the Council allow three-story structures. He stated the proposed request is in compliance with the new building form transitional zoning ordinance.

Gerry Neugent of Knapp Properties, 4949 Westown Parkway, Suite 200, on behalf of Civic Parkway Associates, LLC, explained the building form transition ordinance restricts buildings of three stories or higher from being built within 150 feet of the residential property line, but smaller structures could be built in that buffer. He noted the applicant has made a compromise to not build any structure within the 150 foot buffer and they also agreed to extend and continue to maintain a berm separating the eastern portion of this property from the Pheasant Ridge development. He stated there is also a 100 foot power line easement, which is also a no-build zone; therefore the distances between the proposed buildings and the Pheasant Ridge development exceed the City Code requirements. He also stated the applicant needs the structures to be three stories in order for them to be financially feasible, so he is not agreeable to the request from the Pheasant Ridge Homeowners Association.

Mayor Gaer asked if there were any public comments.

Bruce Hansen, 6251 Pheasant Run Drive, President of the Pheasant Ridge Homeowners Association, expressed appreciation to the applicant for the compromises they have made. He spoke in opposition to the requested three-story buildings, because he believes that is too abrupt of a transition from the neighboring single-family homes. He requested the Council consider limiting the properties that abut the Pheasant Ridge development to structures of no more than two stories.

Todd Weber, 1035 South Deer Road, spoke in opposition to the requested three-story buildings, citing concerns about the abrupt transition and the insufficiency of a 150 foot buffer.

Mr. Hansen noted the Council had previously approved a restriction to PUD parcel G, which is north of the Pheasant Ridge development, to limit it to a two-story project, and this proposed project is a continuation of that project. He believes it made sense for PUD parcel G, so it would make sense to maintain the same requirements on this proposed project.

Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

Council member Sandager stated residents with open space adjoining their property never want to lose the open space, but the only way they can truly ensure the retention of the open space is to buy the adjoining property. He stated the Council's goal in these situations is to mitigate the

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transition so it's not too abrupt. He requested staff provide information on some of the similar transitions in the city.

Mr. Shires showed maps where there are transitions between three-story structures and single-family homes, including the Fountains Apartments (which are as close as 75 feet from the single family properties to the north), the Bella Centro condos (which are as close as 75 feet from the single family properties to the east), and the Bella South condos (which are as close as 110 feet from the single family properties to the east). He expressed that the 75 feet distances feel a little tight, but the 150 foot distance, which is now the minimum distance allowed by the building form transitional zoning ordinance, feels more adequate.

Council member Trimble stated when the building form transitional zoning ordinance was being discussed by the Council, he suggested expanding the distance to 200 feet, but the development community informed the City that such a requirement would be so restrictive that it would make many properties in the city virtually undevelopable, because they would no longer be feasible investments for developers; therefore the Council approved the ordinance with the 150 foot distance. He noted that if a two-story building is built closest to the single-family residential, that it could be as close as 35 feet from the property line, so it likely would not increase the distance from the property line of a three-story building that could be built beyond that.

Council member Sandager stated that by not building a two-story building within that 150-foot buffer zone, there will not be the transitioning the Pheasant Ridge residents desire, but he believes the proposal to maintain that 150-foot buffer zone as open space would seem more desirable to the residents anyway.

Mayor Gaer stated the proposal is in compliance with the existing City Code, and to put additional restrictions on the development could create a precedent that could lead to residents neighboring future developments requesting similar restrictions.

Council member Sandager acknowledged that a number of the Pheasant Ridge residents likely believe the proposed development will diminish the value of their homes, but he stated he believes it will actually enhance the value of their homes because that is what has happened in similar situation in the city and, through the TIF district, it could help lead to the future paving of South 60th Street, which would provide paved access to the Pheasant Ridge development.

Council member Trimble stated he believes the current proposal is the best case scenario in this situation.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Comprehensive Plan Amendment.

Vote 13-216: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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It was moved by Sandager, second by Trevillyan to consider the first reading of the ordinance.

Vote 13-217: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the first reading of the ordinance.

Vote 13-218: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Wells Fargo West Des Moines Campus (Amendment #4), 800 South Jordan Creek Parkway - Amend the Specific Plan to Allow Construction of a Cafeteria and Training Facility, initiated by Wells Fargo Home Mortgage. He asked for the date the notice was published and the City Clerk indicated the notice was published on May 24, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with one member abstaining and one member absent, the Plan and Zoning Commission recommended City Council approval of both the Specific Plan amendment and proposed Overlay District Site Plan.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trevillyan to consider the first reading of the ordinance.

Vote 13-219: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the first reading of the ordinance.

Vote 13-220: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Overlay District Site Plan.

Vote 13-221: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Development Agreement, 4125 Westown Parkway, initiated by 4125 Westown, LLC; Hurd Westown, LLC and Shive-Hattery, Inc. (Tenant). He asked for the date the notice was published and the City Clerk indicated the notice was published on June 4, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments.

Tim Hogan, Hogan Law Office, 3101 Ingersoll, Des Moines, stated there are no issues with the proposed development agreement.

Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Development Agreement.

Vote 13-222: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Development Agreement, 6805 Vista Drive, initiated by Iowa Student Loan Liquidity Corporation. He asked for the date the notice was published and the City Clerk indicated the notice was published on June 4, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Development Agreement.

Vote 13-223: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider 2013 PCC Patching Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on May 31, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

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Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Ohmart to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to P. G. Construction, Inc.

Vote 13-224: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) South Maple Grove Plat 13, southwest corner of 89th Street and Oxford Drive - Subdivide Property into 10 Lots for Multi-Family Development, initiated by Maplewood, LLC

It was moved by Trimble, second by Mickelson to adopt Resolution - Approval of Final Plat, and Release for Recordation, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. Addressing staff's final comments and the provision of final drawings, prior to recording of the plat.

Vote 13-225: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Maffitt Ridge, Maffitt Lake Road and South 55th Street - Subdivide Property into 38 Lots for Residential Development, 4 Lots for Public Streets, and 1 Outlot for Transfer of Ownership, Acceptance of Public Improvements and Acceptance of Surety, initiated by Maffitt Ridge, LLC

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Final Plat, Acceptance of Public Improvements/Surety and Release for Recordation, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The City Council deferring the installation of one four foot (4') sidewalk along one side of the internal public streets in lieu of the applicant providing an eight foot (8') sidewalk on one side of the public street and sixty two feet (62') of right-of-way on internal streets;
2. The City Council granting a waiver to allow the placement of public utility easements in the front yards of the lots due to the vegetative cover that would otherwise need to be removed and the potential conflicts that could occur with the paving of Maffitt Lake Dr. should the easements be placed along the rear of the lots as is generally required by City Code;
3. The City Council allowing existing vegetation located outside the buffer park to count

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towards required buffer park plantings with the agreement that if there is not enough landscaping left after the house construction, the owner will add additional plantings to fulfill the requirement;

4. The City Council require the developer to enter into an agreement with the City regarding the use of light emitting diode (LED) fixtures along the public streets within the development, the installation of street lights adjacent to Maffitt Lake Road adjacent to the development, and the installation of underground electric distribution wires adjacent to South 54th Street, prior to recording the final plat.
5. The applicant executing an agreement and waiver for Maffitt Lake Rd and S 54th Street, prior to final plat approval;
6. In conjunction with the recordation of the Final Plat, the applicant executing all applicable easements, Storm Water Management Facility Maintenance Covenant Agreement, any other required agreements and County required platting documents;
7. The applicant being responsible for the cost and installation of all required public streetlights and sidewalks adjacent to the public streets;
8. The applicant providing to the Chief Building Official copies of the approval from the proper regulatory body of the private septic systems prior to issuance of any building permit.

Council member Trimble inquired if the City Attorney is comfortable with the level of protection the proposed surety arrangement would give the City regarding this development.

City Attorney Scieszinski explained Mr. Mandelbaum requested the City allow an alternate form of surety for this development because the price on the type of bond the City was requesting was extremely high. He stated he feels the City is adequately protected by the proposed arrangement.

Council member Trimble expressed his desire that this type of surety arrangement doesn't become a precedent in the future.

Tim Stiles, Finance Director, stated he has reviewed the proposed surety arrangement and the developer's balance sheets and he is comfortable with the low level of risk the City is being subjected to.

Vote 13-226: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Tiburon, south of Mills Civic Parkway and west of South 95th Street - Subdivide Property into 13 Lots for Residential Construction, 2 Lots for Parkland Dedication, 3 Lots for

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Public Streets and 2 Outlots for Transfer of Ownership, initiated by Triple T, LLC

Chris Shires, Development Planning and Inspection Manager, explained one of the outstanding issues on this item is regarding the right-of-way dedication for Mills Civic Parkway. He stated, since there are homes along the north side of Mills Civic Parkway in this area, staff recommends the dedication of all additional right-of-way be to the south to expand the right-of-way width to 165 feet. This is consistent with what was done for the Woodland Hills (f/k/a Michael's Landing) development. The applicant is requesting payment from the City for that amount of land that is above and beyond the typical amount of right-of-way dedication (in this case, 49.5 feet).

Mayor Gaer inquired why the City can't accept the right-of-way as an easement.

City Attorney Scieszinski responded the City's policy is to own the right-of-way in fee title.

Mayor Gaer suggested the City could obtain the 82.5 feet of right-of-way in fee title and the remaining 49.5 feet could be granted as an easement to the City, so the applicant would still be able to maintain ownership of that land.

Mr. Shires stated that type of arrangement might be practical for commercial or office development, but it would not be recommended for single-family development, because the setbacks are much smaller and it could result in homes being built very close to Mills Civic Parkway when it's expanded to six lanes.

Mayor Gaer stated it could be possible if the applicant agreed to maintain appropriate setbacks as if the City owned the right-of-way land.

Mr. Shires stated another outstanding issue on this item is regarding petitions and waivers for future 105th Street. He noted the Development and Planning Subcommittee recommended requiring it, but the Plan and Zoning Commission recommended not requiring it.

Council member Ohmart clarified that he did not intend to express support for requiring the petitions and waivers for future 105th Street at the Development and Planning Subcommittee meeting, because he does not support it.

The Council reached a consensus that they are not interested in requiring petitions and waivers for future 105th Street.

Mr. Shires stated another outstanding issue on this item is regarding a possible storm sewer fee district, and the Public Works Subcommittee recommended this development be put on notice that they may be subject to a fee of as much as \$4,568 per net developable acre and that these funds be paid or set aside in escrow should the fee district not be established prior to the approval and recordation of the final plat.

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Jim Campney, of Triple T, LLC, 1444 NW 124th Court, Clive, stated he would prefer the storm sewer fee district fee to be \$2,500 per net developable acre, instead of \$4,568, which he believes would place a burden on the development of these lots. He also stated he is not interested in granting the additional 49.5 feet of right-of-way as an easement to the City because it has no value to them. He feels since this development is already burdened by storm sewer fees and the expense of connecting water service to the site, he feels there should be some compensation for the dedication of the excess right-of-way. He estimates the total right-of-way dedication is about three acres of land, and he is requesting compensation for approximately two of those acres, priced at about \$35,000 per acre.

The Council reached a consensus that compensating the applicant for the amount of right-of-way that is in excess of the typical dedication was a reasonable request, but they felt the storm sewer fee district estimate should remain as-is.

Mr. Campney stated he understands if they approve the storm sewer fee district estimate as-is, but he hopes the cost will ultimately be less than the estimate.

The Council discussed whether the procedure for right-of-way dedication for streets should be dictated by the land use of the abutting properties or the classification of the street and expressed a desire to review the policy.

It was moved by Sandager, second by Mickelson to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant providing for review for conformance with City design standards an updated Preliminary Plat that reflects the revised street connection to the property to the east prior to approval of any public improvement plans and the Final Plat.
2. As a part of the Final Plat approval, the applicant will need to provide a petition and waiver for future improvements to Mills Civic Parkway.
3. As a part of the Final Plat approval, the applicant will need to provide surety for the Storm Water Fee District fee at a maximum of \$4,568 per net developable acre until such time the district is established. At such time the Storm Water Connection Fee District is established and the necessary fees are paid, the surety will be cancelled.
4. Prior to Final Plat proceeding to City Council for approval, applicant will need to complete the following public improvements, or petition to the City Council to provide surety in lieu of completion and acceptance of the following public improvements:
 - a. Public street paving
 - b. Public storm and sanitary sewer
 - c. Public sidewalks

5. The Applicant will need to provide addition right-of way for Mills Civic Parkway as indicated in Exhibit III as summarized below:
 - a. Applicant to provide Fee Title to the City for the existing Public Highway Easement (recorded in Dallas County, Book 631, Page 86-89)
 - b. Applicant to dedicate to the City and provide a deed for the property between the current north parcel boundary and the required Mills Civic Parkway right-of way (approximately 132 feet in width), but not included in the existing Public Highway Easement.
 - c. The City will compensate the Applicant as determined by an appraisal for the area of right-of-way that is in excess of what the standard right-of-way dedication would be for a residential property on a residential street.

Council member Ohmart stated he does not support deviating from the current policy with this action prior to having a discussion on the policy.

Council member Sandager stated he sees this as a unique circumstance and not a citywide policy issue. He also stated he believes the excess right-of-way dedication places an additional burden on these residential lots.

Vote 13-227: Mickelson, Sandager ... 2 yes
Ohmart, Trevillyan, Trimble...3 no

Motion failed.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant providing for review for conformance with City design standards an updated Preliminary Plat that reflects the revised street connection to the property to the east prior to approval of any public improvement plans and the Final Plat.
2. As a part of the Final Plat approval, the applicant will need to provide a petition and waiver for future improvements to Mills Civic Parkway.
3. As a part of the Final Plat approval, the applicant will need to provide surety for the Storm Water Fee District fee at a maximum of \$4,568 per net developable acre until such time the district is established. At such time the Storm Water Connection Fee District is established and the necessary fees are paid, the surety will be cancelled.
4. Prior to Final Plat proceeding to City Council for approval, applicant will need to complete the following public improvements, or petition to the City Council to provide surety in lieu of completion and acceptance of the following public improvements:

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- a. Public street paving
 - b. Public storm and sanitary sewer
 - c. Public sidewalks
5. The Applicant will need to provide addition right-of way for Mills Civic Parkway as indicated in Exhibit III as summarized below:
- a. Applicant to provide Fee Title to the City for the existing Public Highway Easement (recorded in Dallas County, Book 631, Page 86-89)
 - b. Applicant to dedicate to the City and provide a deed for the property between the current north parcel boundary and the required Mills Civic Parkway right-of way (approximately 132 feet in width), but not included in the existing Public Highway Easement.
 - c. The City will compensate the Applicant as determined by an appraisal for the area of right-of-way that is between 82.5 feet south of the current north parcel boundary and the required Mills Civic Parkway right of way, but not included in the existing Public Highway Easement (indicated in yellow on Exhibit III of the staff report)

Vote 13-228: Mickelson, Ohmart, Trevillyan, Trimble...4 yes
Sandager...1 no

Motion carried.

Council member Sandager stated since this type of request may never come again and three members of the Council are not interested in changing the policy on whether the procedure for right-of-way dedication for streets should be dictated by the land use of the abutting properties or the classification of the street, he doesn't feel it's necessary to have a subsequent policy discussion on the issue.

On Item 7(d) DMACC West Maintenance Facility, 5959 Grand Avenue - Construction of a Maintenance Building, initiated by Des Moines Area Community College

It was moved by Trevillyan, second by Mickelson to adopt Resolution - Approval of Major Modification, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

- 1. That the final drawings which address remaining staff comments be accepted, prior to any building, footing and foundation, utility or flatwork permits.
- 2. That any landscaping that is missing or has died be planted or replaced to meet the original site plan, and subsequent minor modification requirements, with the construction of the maintenance building.

Vote 13-229: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes

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Motion carried.

On Item 7(e) Kaufman Property, 1101 South 45th Street - Create a Parcel for Transfer of Ownership, initiated by Judith L. Kaufman

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Plat-of-Survey, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant and Mr. Lance Dahm filing the Lot-Tie Agreements for recordation with Polk County in conjunction with the Plat-of-Survey.

Vote 13-230: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(f) Hickory Knolls Place Replat Lot 4, 33681 Rockwood Lane - Create a Parcel for Transfer of Ownership, initiated by David Lacey

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Plat-of-Survey, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant filing the Lot-Tie Agreements for recordation with Dallas County in conjunction with the Plat-of-Survey.

Vote 13-231: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(g) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 8C (Sanitary Sewer Service Charges), Modification of Availability Charges and Basic Rates, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Mickelson to consider the first reading of the ordinance.

Vote 13-232: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Trimble to approve the first reading of the ordinance.

Vote 13-233: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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It was moved by Mickelson, second by Trimble to adopt Resolution - Establishing Sanitary Sewer Rate Stabilization Fund.

Vote 13-234: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 8(a) Public Arts Advisory Commission 2012-2013 Annual Report - Received and Filed

On Item 8(b) Retrocommissioning Reports - Library and Law Enforcement Center - Received and Filed

On Item 9 - Other Matters

Council member Sandager stated he noticed three of several the “Art on the Campus” pieces are already up and they look great, and he is excited that the public will be able to see all of them on display throughout the summer.

The meeting was adjourned at 8:26 p.m.

Respectfully submitted,

Ryan T. Jacobson
Deputy City Clerk

ATTEST:

Steven K. Gaer, Mayor